

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

2010 JUN -8 A 10: 59

ALVA STANLEY
Plaintiff,

CASE #: 3:10-CV-383

v.

JURY TRIAL DEMANDED

VALENTINE & KEBARTAS, INC.
Defendant.

COMPLAINT

COMES NOW the Plaintiff, by counsel, and for her Complaint against the Defendant, respectfully says as follows:

PRELIMINARY STATEMENT

This is an action for actual and statutory damages brought by Plaintiff Alva Stanley, an individual consumer, against Defendant Valentine & Kebartas, Inc. for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION, VENUE, CORE PROCEEDING and JURY DEMAND

1. This court has jurisdiction pursuant to 28 U.S.C. §1331 and 15 U.S.C. §1692k(d).
2. Declaratory relief is available pursuant to 28 U.S.C. §§2201 and 2202.
3. Venue is properly laid in this jurisdiction pursuant to 15 U.S.C. §1692k and 28 U.S.C. §1391(b) and (c).
4. The actions complained of occurred primarily (if not exclusively) in the Eastern District of Virginia and the Defendant transacts business here and should expect to be haled into this court.
5. **TRIAL BY JURY IS HEREBY DEMANDED FOR ALL MATTERS SO TRIABLE.** See FRCP 38 and U.S. CONST. AMEND. VII.

PARTIES

6. Plaintiff, Alva Stanley (hereinafter "Plaintiff") is a natural person and resides in Hanover County, Virginia.
7. Plaintiff falls within the definition of a consumer pursuant to 15 U.S.C. §1692a(3).
8. Defendant, Valentine & Kebartas, Inc. (hereinafter "Defendant"), is a Massachusetts Corporation, engaged in the business of collecting debt in this Commonwealth with its principal place of business located at 15 Union St., Lawrence, MA 01840.
9. Defendant is NOT registered with the Secretary of the Commonwealth without a registered agent and therefore may be served at the following: Cheryl J. Valentine, President, 9239 19th Drive N.W., Bradenton, FL 34209.
10. The principal purpose of the defendant is the collection of debts in this Commonwealth.
11. Defendant regularly attempts to collect consumer debts alleged due to another.
12. Defendant is engaged in the collection of debts from consumers using the mails and telephone.
13. Defendant is a "debt collector" as defined by the FDCPA 15 U.S.C. §1692a(6).

FACTS

14. Plaintiff incurred a debt with Chase Bank, N.A. credit card, not a party to this case, for personal use, bringing the debt in question within the Fair Debt Collection Practices Act.
15. Upon information and belief, the debt was in default with Chase Bank, N.A.
16. Upon information and belief, Chase Bank, N.A. assigned the debt to Defendant prior to January 8, 2010.
17. On or about January 19, 2010 at approximately 5:49 pm, Defendant began calling Plaintiff regarding the alleged debt.
18. Plaintiff spoke with the unknown caller advising the caller that she had retained counsel in regards to this matter.
19. Plaintiff gave the contact information of her attorney to the caller.
20. On or about January 20, 2010 at approximately 9:19 am, Defendant called Plaintiff again regarding the alleged debt.

21. On or about January 20, 2010 at approximately 2:30 pm, Defendant called Plaintiff again regarding the alleged debt.
22. On or about January 21, 2010 at approximately 10:12 am, Defendant called Plaintiff again regarding the alleged debt.
23. On or about January 21, 2010 at approximately 4:33 pm, Defendant called Plaintiff again regarding the alleged debt.
24. On or about January 22, 2010 at approximately 8:32 am, Defendant called Plaintiff again regarding the alleged debt.
25. On or about January 22, 2010 at approximately 3:35 pm, Defendant called Plaintiff again regarding the alleged debt.
26. On or about January 22, 2010 at approximately 4:23 pm, Defendant called Plaintiff again regarding the alleged debt.
27. On or about January 23, 2010 at approximately 11:13 am, Defendant called Plaintiff again regarding the alleged debt.
28. On or about January 27, 2010 at approximately 1:38 pm, Defendant called Plaintiff again regarding the alleged debt.
29. On or about January 27, 2010 at approximately 2:01 pm, Defendant called Plaintiff again regarding the alleged debt.
30. On or about January 28, 2010 at approximately 9:22 am, Defendant called Plaintiff again regarding the alleged debt, this time leaving a voice message.
31. The voice message left by a male caller stated the following:

“Alva Kidd, This is the first of many messages until we receive that information. Telephone number is 1-866-598-2788. My extension is 236.”
32. On or about January 28, 2010 at approximately 9:33 am, Defendant called Plaintiff again regarding the alleged debt, this time leaving another voice message.
33. The voice message left by the same male caller stated the following:

“Alva Kidd, we need to speak with you right away. Telephone number is 1-866-598-2788. My extension is 236.”
34. On or about January 28, 2010 at approximately 4:55 pm, Defendant called Plaintiff again regarding the alleged debt.

35. Defendant WILLFULLY continued to contact Plaintiff after knowing that she was represented by counsel.

COUNT ONE:

Violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.*

36. Plaintiff restates and re-alleges all previous paragraphs herein.

37. Defendant has violated the FDCPA 15 U.S.C. §1692 *et seq.* in the following manner:

- a. Defendant has violated the FDCPA 15 U.S.C. §1692c[a][2], in that they contacted Plaintiff after they knew that the Plaintiff was represented by counsel without obtaining the consent of Plaintiff's counsel.
- b. Defendant has violated the FDCPA 15 U.S.C. §1692e, in that they used means that are false and misleading in the collection of a consumer debt.
- c. Defendant has violated the FDCPA 15 U.S.C. §1692e[11], in that they left messages on a recorder without the Mini-Miranda warning: "This is an attempt to collect a debt and any information will be used for that purpose." or "This is a communication from a debt collector."

38. Plaintiff is entitled to statutory damages, attorney fees, and costs, pursuant to 15 U.S.C. §1692k[a].

WHEREFORE, the Plaintiff by Counsel, respectfully requests this court to enter judgment on her behalf for violations of the Fair Debt Collection Practices Act, for statutory damages, attorney fees, and costs.

ALVA STANLEY

/s/ Jason M. Krumbein, Esq.

by: Jason M. Krumbein, Esq. VSBN 43538 jkrumbein@krumbeinlaw.com

Krumbein Consumer Legal Services, Inc.

Counsel for Plaintiff

1650 Willow Lawn Drive, Suite 300

Richmond, VA 23230

804.673.4358 phone

804.673.4350 fax

Jason M. Krumbein, Esq. VSBN 43538 jkrumbein@krumbeinlaw.com
Krumbein Consumer Legal Services, Inc.
Counsel for Plaintiff
1650 Willow Lawn Drive, Suite 300
Richmond, VA 23230
804.673.4358 phone 804.673.4350 fax